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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

National institutions for the promotion and protection of human rights

Report of the Secretary-General

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Introduction

1. The present report has been prepared pursuant to paragraph 15 of resolution 46/124 of 17 December 1991, by which the General Assembly requested the Secretary-General to report to it on the implementation of the resolution. It contains information on activities undertaken at the international level to enhance the dissemination of principles relating to the status of national institutions and thus trigger the promotion of such institutions in countries that do not have any. The report also stresses the role of national institutions and their activities during the World Conference on Human Rights and describes future activities designed to sustain the momentum for the establishment of national institutions for the promotion and protection of human rights as well as technical assistance programmes executed by advisory services for the States that wish to strengthen the action of their institutions and for those that intend to establish such institutions.

I. PRESENTATION OF THE PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS

2. It should be recalled that the first International Workshop on National Institutions for the Promotion and Protection of Human Rights was held in Paris in October 1991. The main results of the Workshop were a set of principles concerning the status of commissions and their advisory role and the emergence of an international network or community of national institutions. At its forty-eighth session, the Commission on Human Rights adopted resolution 1992/54 of 3 March 1992 containing the guidelines adopted at Paris in October 1991 under the heading "Principles relating to the status of national institutions" resulting from the International Workshop on National Institutions for the Promotion and Protection of Human Rights and decided to transmit those principles to the General Assembly for adoption. Moreover, by its decision 1992/233 of 20 July 1992, the Economic and Social Council approved the Commission's request to the Secretary-General to publicize the proceedings of the International Workshop on National Institutions for the Promotion and Protection of Human Rights 1/ and undertake follow-up activities, and to commence the planning of a follow-up international workshop in 1993, following the World Conference on Human Rights, and submit a report on those preparations to the Commission at its forty-ninth session, and decided to transmit to the General Assembly for adoption the principles relating to the status of national institutions recommended in the report of the International Workshop and contained in the annex to Commission resolution 1992/54. The text of those Principles, sometimes called the "Paris Principles", is reproduced in the annex to the present document.

3. The Principles are divided into four parts; the first three constitute the principles proper while the fourth is devoted to additional principles:

(a) The first part deals with the competence and responsibilities that a national institution must have. It stresses the need to give national institutions as broad a mandate as possible, through a constitutional or legislative text. It also stipulates that on matters concerning the promotion

and protection of human rights, both the executive and the legislative branches shall cooperate closely with national institutions;

(b) The second part sets forth the criteria relating to the composition and guarantees of independence and pluralism of national institutions. It stresses the importance of the pluralist representation of the social forces, especially of civilian society, in order to guarantee the credibility of the institutions;

(c) The third part deals with the methods of operation designed to make the action of national institutions truly effective. The aim here is to ensure that national institutions have wide powers to consider allegations of human rights violations, conduct inquiries, organize themselves as they see fit and maintain relations with jurisdictional bodies and non-governmental organizations;

(d) The fourth part deals with additional principles concerning the status of commissions with quasi-jurisdictional competence. This part recognizes, over and above the competence legally vested in the judiciary power, the competence of national institutions to hear and consider complaints and petitions concerning individual situations where there is a presumption of human rights violations.

4. The Principles on National Institutions, once approved by the General Assembly, will have an important guiding function in the establishment of new institutions and in the strengthening of existing ones. For this reason, Governments to whom assistance in the field of national institutions is provided under the Advisory Services Programme will be encouraged to utilize the principles in order to ensure the development of strong and effective institutions.

II. DISSEMINATION OF THE PRINCIPLES

5. A number of international conferences have made the "Paris Principles" more widely known and encouraged many United Nations Member States to subscribe to the idea of a national institution as an appropriate vehicle for protecting and promoting human rights. These meetings included the Commonwealth Workshop on National Human Rights Institutions (Ottawa, 30 September-2 October 1992), the second regional workshop for the Asia-Pacific region on Human Rights Issues held at Jakarta from 26 to 28 January 1993 and the meeting of representatives of national institutions and organizations encouraging tolerance and harmony and action to combat racism and racial discrimination which was held at Sydney, Australia, from 19 to 23 April 1993.

6. Moreover, the regional meetings for Africa, Latin America and Asia organized as part of the preparations for the World Conference on Human Rights reaffirmed the importance of the role of national institutions for the promotion and protection of human rights. In its resolution AFRM/2, the Regional Meeting for Africa specifically indicates that States should be guided by the Principles relating to the status of national institutions in establishing, within the framework of their national legislation, national institutions for the promotion and protection of human rights.

A. Commonwealth Workshop on National Human Rights Institutions

7. A Commonwealth Workshop on National Human Rights Institutions was held in Ottawa from 30 September to 2 October 1992. The meeting was attended by a cross-section of "ombudsmen" from different Commonwealth countries and the host country, as well as some human rights commissioners. The Centre for Human Rights was represented by an observer.

8. The objective of the Workshop was to share expertise and experiences throughout the Commonwealth on national human rights institutions. It reviewed, inter alia, the philosophical and functional importance of national institutions in any jurisdiction, the political realities of setting up and maintaining a viable national institution, the importance of independence and resources in this context, as well as its interlinkage to international human rights instruments and the World Conference on Human Rights.

9. There was general agreement on the need for encouraging "promotional" institutions aimed at increasing the enjoyment of human rights for individuals and groups, which would ultimately constitute a powerful force towards the development of effective institutions providing for the greater enjoyment of human rights and fundamental freedoms.

10. The discussions also focused in detail on the role and functions of the office of the ombudsman, as distinct from national human rights commissions. There was a consensus that the jurisdiction of the ombudsman was to ensure general fairness and legality in public administration, and to deal with individual complaints. National human rights commissions, on the other hand, had a wider jurisdiction and specifically focused on human rights and non-discrimination.

11. Emphasis was laid, in this respect, on the importance of Commonwealth countries' ratifying the main international human rights instruments and, in particular, the two International Covenants.

12. In their recommendations, the participants in the Commonwealth Workshop stressed that in the establishment and operation of national institutions, due attention should be paid to the "Principles relating to the status of national institutions", particularly in relation to:

> "The jurisdiction and functions of national institutions, dealing with the complaints, review of legislative and administrative measures, and public education and promotion of awareness of and respect for human rights;
>
> "The need for national institutions to provide effective and accessible remedies in relation to complaints of violation of human rights;
>
> "The need to ensure that national institutions are accessible and credible to individuals and groups in disadvantaged sections of society;
>
> "The need for national institutions to be able to work with non-governmental organizations; and

"The possibility where appropriate, of such institutions' monitoring national compliance with international and regional instruments."

B. Second Asia-Pacific Workshop on Human Rights Issues

13. A Workshop on Human Rights Issues was held in Jakarta, Indonesia, from 26 to 28 January 1993, attended by representatives of States, national institutions and non-governmental organizations from the Asia-Pacific region. One objective of the Workshop was to encourage the creation of national human rights institutions in the region.

14. In the discussion on the topic of national institutions, it was recognized that while such institutions for the protection and promotion of human rights remained scarce in the Asia-Pacific region, they had been set up or were being set up in a number of States. Several delegations, including those of India, Indonesia, Sri Lanka and Thailand informed the gathering of steps being taken in their respective countries towards the establishment of national human rights machinery. Other delegations explained the various means by which their legal and/or administrative systems operated to protect human rights. 2/

C. Meeting of national institutions and organizations encouraging tolerance and harmony and action to combat racism and racial discrimination

15. This meeting, organized by the Centre for Human Rights in cooperation with the Australian Human Rights and Equal Opportunity Commission, was held in Sydney from 19 to 23 April 1993. The meeting made possible a better understanding of the role played by national institutions in the specific domain of action to combat racism and racial discrimination. Those taking part were the national institutions of Australia, Cameroon, China, France, India, Mexico, New Zealand, the Philippines, the Russian Federation and Turkey.

16. The importance of the meeting lies in the fact that, in accordance with the third of the Principles relating to the status of national institutions, such institutions are responsible for submitting to the Government, Parliament and any other competent body opinions, recommendations, proposals and reports on any legislative or administrative provisions, as well as provisions relating to judicial organization, intended to preserve and extend the protection of human rights. Hence national institutions are appropriate mechanisms for identifying legal means whereby modern manifestations of racism and racial discrimination can be outlawed.

III. NATIONAL INSTITUTIONS AND THE WORLD CONFERENCE ON HUMAN RIGHTS

17. In its resolution 46/124 of 17 December 1991, the General Assembly expressed the conviction that national institutions could play a significant role in protecting and promoting human rights and fundamental freedoms and in developing and enhancing public awareness of those rights and freedoms.

18. The General Assembly also recommended that the Preparatory Committee for the World Conference on Human Rights should examine ways and means by which the World Conference could encourage the establishment or strengthening of national institutions. In response to the General Assembly's wishes, the Preparatory Committee approved the participation of national institutions as observers at the World Conference.

19. During the meetings that they held from 14 to 16 June 1993 in parallel with the Conference, some 30 national institutions discussed questions of common interest, including the factors which affect the creation of national institutions and similar bodies, ways of enhancing their efficiency, and the establishment of an appropriate structure for the exchange of data and experience among existing national institutions. This exchange of views enabled national institutions to make a noteworthy contribution to the general debate at the Conference and to submit a resolution to the plenary Conference and recommendations to the Drafting Committee. These recommendations were duly included in the Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights. 3/

20. In the first part of the document, the World Conference acknowledges that "increased efforts should be made to assist countries which so request to create the conditions whereby each individual can enjoy universal human rights and fundamental freedoms. Governments and the United Nations system as well as other multilateral organizations are urged to increase considerably the resources allocated to programmes aiming at the establishment and strengthening of national legislation, national institutions and related infrastructures which uphold the rule of law and democracy, electoral assistance, human rights awareness through training, teaching and education, popular participation and civil society". 4/

21. In addition, "the World Conference on Human Rights reaffirms the important and constructive role played by national institutions for the promotion and protection of human rights, in particular in their advisory capacity to the competent authorities, their role in remedying human rights violations, in the dissemination of human rights information and education in human rights". It therefore encourages "the establishment and strengthening of national institutions, having regard to the 'Principles relating to the status of national institutions' and recognizing that it is the right of each State to choose the framework which is best suited to its particular needs at the national level". 5/

22. In the second part of the same document, in the context of measures designed to combat racism, racial discrimination, xenophobia and other forms of intolerance (sect. B.1), "the World Conference on Human Rights urges all Governments to take immediate measures and to develop strong policies to prevent and combat all forms and manifestations of racism, xenophobia or related intolerance, where necessary by enactment of appropriate legislation, including penal measures, and by the establishment of national institutions to combat such phenomena". 6/

23. With regard to cooperation, development and strengthening of human rights (sect. C), the World Conference stresses the need for the implementation of *strengthened advisory services* and technical assistance activities by the Centre

for Human Rights, including "strengthening the institutions of human rights and democracy, the legal protection of human rights, training of officials and others, broad-based education and public information aimed at promoting respect for human rights". 7/

24. With regard to human rights education (sect. D), the World Conference considers that "Governments, with the assistance of intergovernmental organizations, national institutions and non-governmental organizations, should promote an increased awareness of human rights and mutual tolerance". 8/

25. With respect to implementation and monitoring methods for human rights (sect. E), the World Conference "urges Governments to incorporate standards as contained in international human rights instruments in domestic legislation and to strengthen national structures, institutions and organs of society which play a role in promoting and safeguarding human rights". 9/

26. The World Conference also recommends "the strengthening of United Nations activities and programmes to meet requests for assistance by States which want to establish or strengthen their own national institutions for the promotion and protection of human rights". 10/

27. The World Conference "also encourages the strengthening of cooperation between national institutions for the promotion and protection of human rights, particularly through exchanges of information and experience, as well as cooperation with regional organizations and the United Nations". 11/

28. The World Conference "strongly recommends in this regard that representatives of national institutions for the promotion and protection of human rights convene periodic meetings under the auspices of the Centre for Human Rights to examine ways and means of improving their mechanisms and sharing experiences". 12/

29. Finally, in the context of the follow-up to the World Conference and to mark the fiftieth anniversary of the Universal Declaration of Human Rights, national human rights institutions may present their views to the Secretary-General of the United Nations on the progress made in the implementation of the Vienna Declaration. 13/

30. In addition, on 16 June 1993 the representatives of national institutions meeting in Vienna adopted a resolution 14/ reaffirming the importance of the "Paris Principles" (see para. 2 above) as a point of reference for the establishment of national institutions. In the same resolution, they also recommended "the creation within the United Nations system of a board of directors, including, in particular, representatives of national institutions, to oversee the use of a voluntary fund to encourage the creation of national institutions and the strengthening of cooperation among them, particularly through exchanges of information and experience, as well as through cooperation with regional organizations and the United Nations".

31. The national institutions meeting in Vienna also decided to set up an informal coordinating committee of national institutions consisting of representatives of national institutions from Australia, Cameroon, Canada, France, Mexico, New Zealand, the Philippines and Tunisia, to consider human

rights questions of particular interest to national institutions. The coordinating committee discussed problems relating to the sexual exploitation of children, violence against women, and the implementation of the rights of the disabled.

IV. ADVISORY SERVICES AND TECHNICAL ASSISTANCE FOR NATIONAL INSTITUTIONS

32. Under its programme of advisory services and technical assistance, the Centre for Human Rights is engaged in a wide range of activities that seek to achieve the objective of the Charter of the United Nations of promoting respect for human rights and fundamental freedoms for all. Programme activities include the provision of assistance for the incorporation of human rights norms in national constitutions, in the legal and technical aspects of democratic elections and in the development and revision of national legislation to ensure its conformity with international human rights standards. Practical assistance is also provided in support of an independent judiciary, and fellowships and training courses organized for national officials involved in the administration of justice or otherwise concerned with implementing international human rights standards at the national level, including legislators, judges, lawyers, prosecutors, members of the police and security forces. Other target groups for the Centre's training activities include teachers, union officials, the media and human rights non-governmental organizations.

33. One central objective of the programme is to consolidate and strengthen further the role that national institutions can play in the promotion and protection of human rights. For the purposes of advisory services and technical assistance, the term "national institution" is interpreted flexibly to mean any body which is established by a Government to play a central role in the domestic human rights situation. Such institutions can generally be subdivided into categories, including human rights commissions, offices of ombudsmen and procurators, research and training institutes and specialized institutions with competence in a particular area. In its provision of assistance to Governments in the field of national institutions, the Centre recognizes the crucial importance of the concept of independence. Governments receiving assistance are therefore encouraged to work towards the creation of truly independent institutions in accordance with the Principles on National Institutions.

34. Assistance to national institutions under the advisory services and technical assistance programme takes several different forms. The Centre offers its services to Governments which are considering or are in the process of establishing a national human rights institution. Assistance in such cases may be financial or may involve provision of the services of an expert to advise governmental authorities on suitable models and the transmission of technical information and comparative legislation to facilitate the task of legislative drafting. If a national institution has already been established, the Centre is able to offer similar forms of assistance aimed at strengthening the institution and enhancing its capacity to play a central role in human rights promotion and protection.

35. Increasingly, the Centre is attempting to utilize the services of existing national institutions in the implementation of its country programmes. In this

context, the national institution may cooperate with the Centre in organizing training courses and seminars, translating human rights instruments or coordinating the work of national non-governmental organizations. This approach offers distinct benefits on both sides. A national institution can be an important facilitator for the Centre in its work and is often in a position to provide crucial administrative, technical and substantive support. The institution can be strengthened internally through its cooperative work with the Centre and gain much-needed support from both within and outside the Government.

36. Other activities of the advisory services and technical assistance programme related to national institutions are not oriented towards a particular country or institution but instead are aimed at promoting the concept of national human rights institutions and encouraging their development on a broad basis. To this end, the Centre has produced information materials and is currently developing a practical manual for those involved in the establishment and administration of national institutions. The Centre has also conducted a number of seminars and workshops to provide government officials with both information and expertise in the structure and functioning of such bodies. These events have also served as useful forums within which to promote the exchange of information and experience concerning the establishment and operation of national institutions.

37. Reference is made in paragraph 7 of General Assembly resolution 46/124 to regional human rights institutions. The objectives and methods of the Centre's programme of assistance to these bodies are quite different from those upon which the programme of assistance to national institutions is based. For this reason it may be more appropriate for discussion of these respective topics to be kept separate. Nevertheless, in view of the paragraph referred to above, the present report will make a brief reference to these particular activities under the relevant heading.

38. In addition to its activities in the field of national institutions, the Centre for Human Rights provides assistance to a number of Governments in developing human rights centres within relevant ministries. Often these centres serve as focal points for training and the dissemination of information and in this way prove to be valuable contributors to the development of a human rights culture at the national level. Assistance of this kind has been or is being provided, among others, to the Governments of Argentina, Paraguay and Uruguay. Further information on these aspects of the Centre's advisory services programme may be found in the Centre's report to the Commission on Human Rights in 1993. 15/

A. Advisory services and technical assistance activities

1. Africa

(a) Algeria

39. The Centre for Human Rights has provided documentation and information material to the Government of Algeria to assist in the strengthening of the Observatoire national des droits de l'homme, a recently established national institution. The Centre has also facilitated cooperation between the

Observatoire and the Arab Institute for Human Rights at Tunis to assist the former in setting up a documentation unit.

(b) Benin

40. A National Commission on Human Rights has been established in Benin. The Centre for Human Rights has in the past provided this institution with documentation and information materials and will continue to do so in the future. In October 1992, the Centre arranged for the advisory services of an expert to assess the needs of that country in the field of human rights. The expert's report and the recommendations contained therein will form the basis of a technical assistance project to be elaborated by the Centre for Human Rights in collaboration with the Government of Benin. The project will be implemented with the cooperation and assistance of the National Commission on Human Rights.

(c) Burundi

41. The Centre for Human Rights has established and maintained contact with the National Centre for Promotion of Human Rights in Burundi. A needs assessment mission was organized under the programme of advisory services and technical assistance and conducted by an expert appointed by the Centre in April 1993. The assessment by the expert of the human rights needs of Burundi will form the basis of a comprehensive project of technical assistance to be elaborated by the Centre in consultation with the Government of Burundi. The project is expected to be implemented through and with the cooperation of the National Commission for Human Rights.

(d) Cameroon

42. A National Commission on Human Rights and Freedoms has recently been established in Cameroon. The Centre for Human Rights has provided the Commission with documentation and information materials. A number of activities to be conducted with and through the Commission are currently being planned, including a training course for Commission members on international human rights standards and the functions of national human rights institutions, which is tentatively scheduled for September 1993.

(e) Togo

43. The Centre for Human Rights, through the advisory services and technical assistance programme, was heavily involved in the establishment, in 1990, of a National Commission on Human Rights in Togo. Several seminars were conducted and the Commission was provided with documentation and information materials. Contact with the Commission and the Centre is continuing.

(f) Other assistance at the national level

44. The Centre for Human Rights is currently conducting discussions with the Governments of a number of additional countries in Africa which are involved or interested in receiving assistance in the establishment or strengthening of national institutions, including Morocco, Namibia and the United Republic of Tanzania. Similar discussions are being conducted in South Africa.

(g) Regional institutions

45. For a number of years, the Centre for Human Rights has been providing support and assistance to several regional centres for documentation and training located in Africa, including the African Commission on Human and Peoples' Rights of the Organization of African Unity; the Arab Institute for Human Rights at Tunis and the African Centre for Democracy and Human Rights Studies at Banjul. Details of the assistance provided to these institutions may be found in the most recent report of the Centre for Human Rights on its advisory services programme. 15/

2. Asia

Regional workshop

46. Pursuant to Commission on Human Rights resolution 1992/40, and under its programme of advisory services and technical assistance, the Centre for Human Rights organized the Second Workshop for the Asia-Pacific Region on Human Rights Issues at Jakarta from 26 to 28 January 1993. Participants included senior officials from the Asian and Pacific region as well as representatives of national institutions, United Nations agencies and non-governmental human rights organizations active in the region. Issues concerning the establishment and development of national human rights institutions formed one of the central themes of the Workshop as part of a broader consideration of the role of States in the implementation of international human rights standards. The panel for discussion of national institutions was composed of the Human Rights Commissioners of Australia, the Philippines and New Zealand. Each presenter gave an overview of the structure and functioning of the institution in his or her country, including the legal basis for its creation and a history of its development. A number of specific topics were then examined by the panel, including jurisdiction and competence; relations between national institutions, the State and other partners; and issues of autonomy and independence. The final session was in the form of a round-table discussion of the ways in which a national institution could become an effective instrument in promoting and protecting human rights at the domestic level. 2/

3. Europe

(a) Poland

47. In 1992, the Centre commenced the implementation of a technical assistance project in the Government of Poland to enhance human rights infrastructures in that country. Assistance has been provided to help strengthen national human rights infrastructures, including non-governmental centres for research, documentation and training in the field of human rights.

(b) Romania

48. Under its country programme of advisory services and technical assistance to the Government of Romania, the Centre for Human Rights has been involved in a number of activities directed towards the establishment of national

infrastructure for the promotion and protection of human rights. In 1990, the Centre provided technical assistance in the drafting of the Romanian Constitution which, inter alia, provides for the establishment of a "Defender of the People" (Ombudsman) to defend the rights and liberties of the citizens of that country. In the course of 1992, the Centre assisted the Romanian legislature in its drafting of an organic law to give effect to this constitutional provision by collecting and forwarding to the Government legislative provisions from a number of democratic jurisdictions relating to the establishment and functioning of an institution similar to that envisaged in the Constitution.

49. The Centre has been providing financial, organizational and documentary support to the Romanian Institute for Human Rights, which was established as an independent national institution by the Romanian Parliament in 1991. All information and training components of the technical assistance project in Romania are implemented through and with the cooperation of the Institute.

50. In May 1993, the Centre organized, in cooperation with the Romanian Institute of Human Rights, the Workshop on Conflict Resolution between the Citizen and the State. The Workshop was directed towards labour unions, non-governmental organizations, minorities and persons involved in establishing the Office of the Ombudsman. Participants received training from persons expert in conflict resolution from one or more of the above-mentioned perspectives. The panel of experts included the Deputy Ombudsman of the Netherlands, who explained the structure and functions of that office and conducted discussion groups on how the Ombudsman could best be utilized to promote and protect human rights and fundamental freedoms.

(c) Slovak Republic

51. The Centre for Human Rights is currently engaged in discussions with the Government of the Netherlands and the newly established Government of Slovakia concerning possible cooperative assistance in the establishment of a national human rights institution at Bratislava. The envisaged institution will have a broad mandate including legislative review, training and information dissemination. In terms of both legal status and composition, it will conform to the Paris Principles on National Institutions reproduced in the annex to the present report.

4. Latin America

(a) Guatemala

52. The Centre for Human Rights has been involved for a number of years in the provision of advisory services and other forms of technical assistance in the field of human rights to the Government of Guatemala, aimed at fostering and strengthening the consolidation of the democratic process and promoting a human rights culture in that country. In this context, the Centre has provided practical assistance in the establishment and subsequent development of the Office of the Human Rights Procurator. This institution has proved to be a crucial element in the struggle for human rights in Guatemala. 16/ Assistance was also provided in the establishment of a documentation centre within the

Presidential Coordinating Commission on Executive Policy in the Field of Human Rights. The documentation centre contains information on all major developments in the field of human rights.

(b) Colombia

53. The Centre has been executing a technical assistance programme in cooperation with the United Nations Development Programme (UNDP) and the Government of Colombia in order to strengthen national institutions for the promotion and protection of human rights in that country. In December 1992, an evaluation mission to review the above-mentioned programme took place. In its conclusions, 17/ the mission recommended, inter alia, the establishment of an independent commission to ensure the implementation of governmental human rights policies and to efficiently coordinate the relationship between the Government of Colombia and the international community as regards international human rights obligations. The Centre for Human Rights has also been working with UNDP and the Government of Colombia in the establishment of the Office of the Presidential Adviser on Human Rights. An evaluation report on the functioning of this Office is currently being prepared and will be released as a document of the Commission of Human Rights.

(c) Costa Rica

54. Under a technical assistance agreement concluded in 1992 between the Centre for Human Rights and the Government of Costa Rica, two government officials are to receive human rights training each year. Training is provided on human rights norms and standards in general and on the functioning of the Office of the Ombudsman in particular. An exchange of knowledge and experience between participants and staff of the Spanish Office of the Ombudsman is a feature of the programme.

(d) Honduras

55. The Government of Honduras has recently established an Office of the High Commissioner on Human Rights. Under its advisory services programme, the Centre provided advice and assistance to the Government on this project through the UNDP office in Honduras.

B. Information and training materials

1. Fact Sheet on national institutions

56. In May 1993, the Centre for Human Rights published Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights. The Fact Sheet is aimed at the non-specialist public. It explains, in clear terms, the concept of national human rights institutions; it then identifies the various forms which they can take and sets out the basic criteria for effective functioning. The Fact Sheet will be widely disseminated in all six official languages of the United Nations.

2. Manual on national institutions for the promotion and protection of human rights

57. The Centre for Human Rights is currently in the process of developing a manual on national institutions directed primarily at parliamentarians and governmental officials engaged in the establishment of new institutions and those involved in the further development and strengthening of existing ones. The manual is intended to be a practical tool to assist these persons by reference to international standards and comparative practice. It will contain detailed information regarding the structure, functioning, organization and competence of a range of possible models, including national commissions; offices of ombudsmen and procurators; national research and training institutes; and specialized institutions with competence in a particular area, such as racial discrimination. Substantive sections describing the structure and functioning of each model will be followed by a comprehensive directory of existing institutions, including model legislation. A final section will reproduce the United Nations Guidelines for the Establishment and Functioning of National Human Rights Institutions, along with selected information which emerged from the Paris Conference on National Institutions organized by the Centre in 1991 and the workshop held parallel to the World Conference on Human Rights.

V. FOLLOW-UP MEETING FOR NATIONAL INSTITUTIONS

58. Pursuant to the provisions of resolution 1992/54, the Commission on Human Rights has planned to hold additional international meetings in 1993, following the World Conference. In accordance with the formal proposal made by the Tunisian Government at the World Conference, these meetings could be held in Tunis in December 1993.

59. The particular objectives of these meetings are: (i) to confirm the establishment of the coordinating committee for national institutions (see para. 31); (ii) to examine methods for the implementation of the elements of the Vienna Declaration and Plan of Action that relate to the competence of national institutions, as well as the resolutions adopted by the coordinating committee at the World Conference; (iii) to study the plan for the creation, within the United Nations system, of a board of directors to oversee a voluntary fund to encourage the creation and development of national institutions; (iv) to draw up a draft technical cooperation programme aimed at improving exchanges of information and experience among national institutions, providing information to States desiring to establish national institutions and providing training for officials of existing national institutions who desire it.

ANNEX

Principles relating to the status of national institutions

Competence and responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.

2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Notes

1/ E/CN.4/1992/43 and Add.1 and 2.

2/ The English version of the report of this meeting appears as document A/CONF.157/ASRM/3. The report will eventually be released as a publication of the Centre for Human Rights.

3/ A/CONF.157/23.

4/ Ibid., para. 34.

5/ Ibid., para. 36.

6/ Ibid., para. 20.

7/ Ibid., para. 68.

8/ Ibid., para. 82.

9/ Ibid., para. 83.

10/ Ibid., para. 84.

11/ Ibid., para. 85.

12/ Ibid., para. 86.

13/ Ibid., para. 100.

14/ A/CONF.157/NI/6.

15/ E/CN.4/1993/61 and Corr.1 and Add.1.

16/ E/CN.4/1993/10, paras. 247-249.

17/ E/CN.4/1993/61, para. 146.